App. F. IX-4

Previous References

1936.
(Mazza)

File No. 29-36

Serial Nos. 1-2

Letter References.

Reg 70-37

GENERAL AND REVENUE SECRETARIAT.

Serial Nos.

Part B for ~~April~~ April 37

SUBJECT.

Cancellation of the mam Cause of R.S. no 1342 of Jafalli Village in Bagepalli Taluk.

To The Mazza Cause no 1357 of 5-4-37

WD 0418—GPB—22,500—29-8-36

Returns the records for the disposal according to Law

 1936-37

GENERAL AND REVENUE SECRETARIAT.

(Home)

NOTES.

File No. 21

FILE HEADING

FROM

No.	Dated	Received
Diary No.	Enclos. Spare copies	Serial No.

BRIEF ABSTRACT OF LETTER

NOTES AND ORDERS.

According to the Civil Register, it is reported that the land in question is a Devadaya inam granted for performing sacrifices at the beginning of dry cultivation. This service is stated to be not being done and the inam land was sold in public auction in 1921 in satisfaction of a civil court decree against one Venkatarama who was in possession of the land and the khata of the land

NOTES—First Sheet

WD 0245—GPB—2,500—23-8-32

also transferred to the name of the purchaser in 1923.

2) The Sub Divisional Officer recommended that the land might be confirmed to the purchaser Venkatappa on full assessment from the year he took it to his possession. The Deputy Commissioner, on the ground that the alienation of this Devadaya land was subsequent to 31.1.1853, treated the case as one of un-authorised alienation and passed order directing the resumption of the inam land under the Inam Rules of 1877 (Vide also first proviso to Section 10 of the Regulation VII of 1827).

3) On the other hand the M.C. considers that this is a case in which adverse possession under Second proviso to Section 10 of the Regulation will have to be conceded as the service attached to the grant is not being performed for several years and the purchaser has been enjoying the land adversely to the institution for over 12 years. The M.C has therefore recommended cancellation of the inam tenure of the land and confirmation of the land to the purchaser on full assessment.

4) As the M.C and the D.C have differed in their views on the point, which view is correct — whether the view of the D.C or that of the M.C. seems to require consideration.

Serial No.

5) From the Wording of the Second proviso to Section 10 of the Regulation, it is clear that a case of "adverse possession" arises only where there has been adverse possession of property (viz land) for a period of twelve years before the passing of the Regulation 1927, and not otherwise. The Regulation having come into force from 1st April 1927, the period of 12 years before the passing of the Regulation has had to be computed from 1.4.1927 backwards. Thus calculated it will be 1.4.1915 and adverse possession prior to this date and for a period of 12 years, can only be treated under the Second proviso. In the present case the auction purchaser took possession of the land in about July 1921 i.e. only about 6 years prior to the date of passing of the Regulation and not 12 years. In this view of the case it is difficult to conclude how the Mungod commissioner's view is tenable.

6) Besides if the case really falls within the purview of the Second proviso, as held by the M.C., the case need not come up to Govt for orders and the local Mungod Tehsildar is competent to pass the necessary orders.

NOTE—Contn. Sheet.

(D 0417—GPB—30,000—8 9)

(6)
cancellation of the inam tirumka of R.S. No 134 Ejy.

General and Rev. Secretariat.

File No. of 193 6

Serial No.

7/
Law Section may perhaps be consulted in the matter

8/7 8. In this case the devadaya inam land was purchased by Anbatti Venkatappa. As devadaya inam lands cannot be alienated and are liable to resumption if they are alienated, Venkatappa cannot be in legal possession of the land. It is therefore a point for consideration whether he can be said to have been in adverse possession of the land as stated by the munsif Court. If neither as Venkatappa purchased the land only in 1933, the case does not seem to come under second proviso to Sec. 10, as he was in possession of the land for 12 years. It is therefore a point for orders whether the land is not liable to resumption under Sec. 10 of the Religious and Charitable Institutions Regulation.

* Vide para 274 of the Revenue Manual, Vol. I

In Karnur 7 opinion
9
10/4/-

Mr. Hiry Law
Hin. Endowments

9/ The Munsif Commissioner writes in para 4 of his letter dated 16/17 - 2 - 37 (R.D.)

218
Law
BKR
10.3.37

Serial No.

that this seems to be a case in which adverse possession will have to be conceded under second proviso to Section 10 of the Inams Religious and Charitable Institutions Regulation, as the purchaser has been enjoying the land adversely to the institution for over 12 years. It is true that Ambati Venkatappa purchased the property in 1921 and has been in possession since then, and his possession may also be conceded to be adverse to the institution. But this circumstance is not sufficient to bring the case within the 2nd proviso to Section 10. It is not mere adverse possession for a period of 12 years that is protected under the proviso, but it is such adverse possession for a period of 12 years before the passing of the Regulation. The Regulation received the assent of His Highness the Maharaja on 19.3.27 and came into force from 1.4.27. It is therefore necessary that in order to claim the benefit of the proviso, the alienee must show that his adverse possession for a period prior of 12 years prior to 1927. In this case the purchaser has such possession for six years only prior to the passing of the Regulation. It is therefore obvious that this is a case to which 2nd proviso to Section 10 is not applicable.

NOTE—Contn. Sheet.

WD 0417 -GPB—30,000 8 9 36

File No. of 193 . | General and Secretariat

Serial No.

10) The Mugrai Commissioner's recommendation does not therefore appear to be acceptable

BNR 17.3.37

Gen. Secy.

GENERAL SECRETARIAT 17 MAR 1937

1) This is a case of Devadaya Inam land not attached to any temple or other institution, but granted for performing service - in this case, for performing sacrifice at the beginning of dry cultivation. This service is not being done & would appear to have long since gone into disuse.

2) Prima facie, therefore, there is no justification to continue the inam tenure of the land. But the grounds on which the Mugr. Commr. recommends the cancellation of the inam tenure is, that the party in possn. has been in continuous enjoyment of the land for over 12 years - under the second proviso to Sec 10. of the Rent Act. As pointed out, however in the case of the Assistant Comr. above, this proviso is not applicable to the present case, as the land was granted in a Civil Court sale in 1921.

3) I would learn from the letter of the Mug Comr that an appeal is pending before him re. this case and

and evenue tariat Mucs File No. 242 of 1936 [App.

Serial No.

an order of the D/Comm. It appears therefore the records will be returned to the Comm. with these observations, for disposal the appeal acc. to law.

First m/r

23/3/37.

BKR 23-3-37

30/3

WA 30/3/37

30.3.37

For favour of further action

BKR 30-3-37

Mysore (Branch)
Submitted with a draft

31.3.37.

No 1357 dated 5-4-1937

To

The Mysore Commissioner

States that the proviso to Section 14 of the Religious and Charitable Regulation is not applicable to this case and returns the records for the disposal of the case according to law.

B 9/4

10/4

NOTE—Contin Sh

WD 0417 -GPE—30,000—8-9-6

File No. of 193 .

General an
Secreta

Serial
No.

GENL. 806 DEPT. 19 FEB. 1937 MYSORE

No. Appl.29/35-36.
Encl - one file

OFFICE OF THE MUZRAI COMMISSIONER
IN MYSORE,

Bangalore, 16th February ....193 7.

Law 10/3.

FROM

K. V. ANANTARAMAN, ESQ., B.A.,
Muzrai Commissioner in Mysore

Muz 29-36 1.

To

V. Venkatesa Iyengar, Esq., M.A.,
Secretary to the Government of His Highness
the Maharaja of Mysore,
....General.....*Department.*

SECRETARIAT GENL. 18 FEB. 19

SIR,

Cancellation of the inam tenure of Re-S.No.134 of Gujjepalli Village in Bagepalli Taluk.

I have the honor to forward herewith a copy of letter No.A1-C.2522/34-35 dated 28-7-1936 from the Deputy Commissioner, Kolar District and the file of correspondence relating to the above, and to state as follows:-

2. The facts of the case are stated in the Deputy Commissioner's letter. According to the Quit Rent Register, S.No.134 is a devadaya inam granted for performing sacrifice at the beginning of dry cultivation.

It is reported that the service is not being done and the inam land was sold in auction in 1921 in satisfaction of a civil decree against one Venkataramaa who was in possession of the land and the khata of the land was also transferred to the name of the purchaser in 1923.

3. The Sub Division Officer recommended that the land might be confirmed to the purchaser, Ambatti Venkatappa, on full assessment from the year he took it to his possession. The Deputy Commissioner, treating the case as one of unauthorised alienation, passed orders directing the resumption of the inam land under the Inam rules of 1877.

4. gainst this order, Ambatti Venkatappa appealed to this office and his Counsel was heard on 1st December 1936. This seems to be a case in which adverse possession will have to be conceded

under second proviso to Section 10 of the Mysore Religious & Charitable Institutions Regulation, as the service for which the inam has been granted is not being performed for several years past and the purchaser has been enjoying the land adversely to the institution for over 12 years.

I, therefore, recommend that the inam tenure of the land may kindly be cancelled and the land ordered to be confirmed to the purchaser, Ambatti Venkatappa, on full assessment from the year of purchase, the difference between the assessment and jodi being credited to General Muzrai Fund.

I have the honor to be,

Sir,

Your most obedient servant,

M. N. Anantha Murthy.

Assistant Commissioner
for Muzrai Commissioner.
(Absent from headquarters)

ter No.Al-C.2522/34-35 dated 23-7-36 from the Deputy Commissioner, strict, to the Muzrai Commissioner in Mysore.

Subject:- Appeal Petition of Ambatti Venkatappa of Pathapalya village, Bagepalli Taluk.

With reference to your letter No.App.29/35-36 dated 24th June 1936 forwarding for report the appeal petition of Ambatti Venkatappa of Pathapalya village, Bagepalli Taluk, I have the honor to state that as per Title Deed No.1207/317, Re-Survey No.134 of Gujjepalli village was granted as Devadaya Service Inam to the office-holder only for the purpose of 'offering sacrific at the beginning dry cultivation' (vide Flag 'N' in the file). This land wa in the possession and enjoyment of one Mukkala Venkataraya till 4th July 192 when Ambatti Venkattappa obtained a decree for Rs 812 against him and purchas the land in a Civil Court sale. On the application of Venkatappa to the Pal authorities, the land was registered in his name, during the year 1923-24.

Since it was subsequently learnt that this land (particulars noted in the margin) had been unauthorisedly alienated by Mukkala Venkataraya, the

Re-S.No.	Extent. A. G.	Assessment.	Jodi.
134	1 17	Rs 2-4-0	Rs 0-8-0

Amildar referred the matter to the Revenue Inspector for report whether the service for which S.No.134 was granted, was actually being performed and whether the land was in the possession of the original grantee. The village of Gujjepalli stated in their Mahazar (Flag 'D') that the service was not being performed and that the descendants of the inam-holder were not residing the village.

The matter was reported by the Amildar to the Sub Division Officer who recommended to this office in his report No.S1-C.105/35-36 dated 27th August 1935, that the land might be confirmed to Ambatti Venkatappa, the present holder, on recovery of full assessment from the year in which he got possession of the land. But it was ordered in this office No.Al-C.2522/34-35 dated 1st October 1935 that, as it was a case of Devadaya inam alienated subsequent to 31st January 1853, the land has to be resumed to Government under Article 274 (b) Mysore Revenue Manual, Vol.I (Flag 'L' in the file).

A notice was also issued by the Amildar on 30th November 1935 intimating Ambatti Venkatappa that he should restore the land to Government within 6 months from the date of its service. But the party has given a statement before the Amildar on 10th July 1936 to the effect that he is not prepared to give up the land to Government and that the difference of full assessment recovered from him from the year in which he is in possession

The entire file of connected records together with the appeal and its three enclosures received with your letter is herein enclosed for kind reference.

"C O P Y"

M. N. Ramakrishnan.

For Muzrai Commissioner.

Section Mug.

File No. 219-36

Serial No. 2

Diary No. of letter replied to 806

No. 1357 Income Tax

To

The Mugrai Comr.

General and Revenue Secretariat

( )

tne 193 .

Sir,

Cancellation of the inam tenure of R.S. No. 134 of Chinchpalli, Bagepalli Taluk and its confirmation to its present holder Ambatti Venkatappa on full assessment.

Date of issue 5-11-37

With reference to your letter No. App. 29/36-36 dated 16th February 1937 on the subject referred to above, I am directed to state that this is a case of Devadeya inam land not attached to any temple or other institution, but granted for performing a specific service, viz., performing a sacrifice at the beginning of dry cultivation.

Signed by Sri Sapla O.A.S. Asstt.

List of enclosures .....

Copied by .....

Examined by .....

this service is not being
and would appear to have
long since gone into disuse.
Prima facie therefore on the
merits of the case there is no
justification to continue the
inam tenure of the land. But
the ground on which you recom-
mend the cancellation of its inam
tenure and its confirmation to the
present holder of the land Ambatti
Venkatappa on full assessment
is that ~~present~~ person in
whose occupancy the land is has
been in adverse enjoyment of
the land for over 12 years and
that the case therefore falls under
the second proviso to Sec. 10 of the
Religious and Charitable Institu-
tions Regulation. This proviso is
not applicable to this case,
firstly Venkatappa purchased the

G. R. S. App. F. G. 3.

GENERAL AND REVENUE only SECRETARIAT.

(*Continuation sheet draft form.*)

land in a civil Court sale, in 1921. It is reported in your letter referred above that an appeal ~~has been~~ against the order of the Dy. Comr Kolar dt., in the matter is pending with you. I am therefore directed to return the connected records with these observations for the disposal of the appeal according to law.

I have etc.,

2/31/3/-

Secy. to Govt.

C.2

WD 0436—GPB—10,000—17 10-33

GOVERNMENT OF HIS HIGHNESS THE MAHARAJA OF MYSORE

General and Revenue Secretariat

No. 1387 Income tax 5/6

Mzg 21 g.- 36-2

Bangalore, Dated, 2nd April 1937.

From

The *General Secretary to the Government of His Highness the Maharaja of Mysore.*

To

The Muzrai Commissioner in Mysore,

Bangalore.

Sir,

Cancellation of the inam tenure of Re.S.No.134 of Gujjepalli, Bagepalli Taluk and its confirmation to its present holder Ambatti Venkatappa on full assessment.

With reference to your letter No. App.29/35-36 dated 16th February 1937 on the subject referred to above, I am directed to state that this is a case of Devadaya inam land not attached to any temple or other institution, but granted for performing a specific service, viz., performing a sacrifice at the beginning of dry cultivation. This service is not being done and would appear to have long since gone into disuse. Prima facie therefore, on the merits of the case, there is no justification to continue the inam tenure of the land. But the ground on which you recommend the cancellation of its inam tenure and its confirmation to the present holder of the land Ambatti Venkatappa on full assessment is that the person in whose occupancy the land is has been in adverse enjoyment of the land for over 12 years and that the case therefore falls under the second proviso to section 10 of the Religious and Charitable Institutions Regulation. This proviso is not applicable to this case, as Venkatappa purchased the land in a civil court sale only in 1921. It is reported in your letter referred to above that an appeal against the order of the Deputy Commissioner, Kolar District, in the matter is pending with you. I am therefore directed to return

he connected records with these observations for the disposal of the appeal according to law.

I have the honour to be,
Sir,
Your most obedient servant,

Mir Sajan Imam

for General Secretary to Govt.